

Message Text

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ACTION L-02

INFO OCT-01 EA-10 ISO-00 SNM-02 JUSE-00 RSC-01 SSO-00 /016 W

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC IMMEDIATE NIACT 7532

UNCLAS TOKYO 1023

E.O. 11652: N/A

TAGS: CPRS, PROF, SNAR, JA

SUBJECT: JUDICIAL ASSISTANCE - JUSTICE DEPT DEPOSITION

REF: STATE 16655

1. DURING MORNING SESSION ENTIRE TIME TAKEN UP BY DEFENSE IN MAKING OBJECTIONS FOR THE RECORD TO GOJ RESTRICTIONS PLACED ON DEFENDANTS. NO FURTHER CROSS EXAMINATION OF WITNESS ADAMS WAS ATTEMPTED. UPON RETURN FROM LUNCH DEFENSE ANNOUNCED THAT UNLESS RESTRICTIONS ON DEFENDANTS WERE LIFTED BY GOJ THEY WOULDNOT CONTINUE WITH DEPOSITION. EMB HAD PREVIOUS DISCUSSION OF THIS SUBJECT WITH GOJ AND HAD BEEN INFORMED THAT IN THE INTEREST OF ITS OWN INTERNAL SECURITY AND FOR ITS OWN PROTECTION THE RESTRICTIONS ON THE DEFENDANTS WERE CONSIDERED NECESSARY. UPON BEING INFORMED OF THIS FACT DEFENSE COUNSEL AND DEFENDANTS LEFT THE PRISON AND RETURNED TO THEIR HOTEL.

2. RESERVATIONS HAVE BEEN MADE FOR DEPARTURE OF DEFENDANTS ON NW AIRLINES FLT 10 LEAVING TOKYO AT 2130 HOURS FRIDAY JAN 24 FOR HONOLULU AND SAN FRANCISCO. TRAVEL PLANS OF DEFENSE COUNSEL ARE NOT KNOWN ALTHOUGH EMB HAS INFORMED THEM SPACE IS AVAILABLE ON THAT FLIGHT IF THEY DESIRE TO TAKE IT. U.S. ATTY NERNEY HAS DECIDED HE WILL REMAIN TO COMPLETE THE DEPOSITION AND CONSUL CUMMING, VIDEO TAPE OPERATOR AND STENO WILL REMAIN. TESTIMONY OF ADAMS WAS COMPLETED AND NERNEY EXPECTS TO COMPLETE DIRECT TESTIMONY OF WITNESS GAMBLE ON SATURDAY.

3. EARLIER IN THE DAY GOJ HAD SUBMITTED COUNTER PROPOSAL TO THE EFFECT THAT IT WOULD PERMIT CONTINUANCE OF DEPOSITION THROUGH NOON SATURDAY, IF DEFENDANTS WOULD DEPART ON THAT DATE. COUNEL UNCLASSIFIED

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FOR DEFENSE WWAS WELCOME TO REMAIN AND COMPLETE ENTIRE DEPOSITION

REGARDLESS OF TIME. IT WAS PRESENCE OF DEFENDANTS WHICH WAS CAUSING THE SECURITY PROBLEM. ACTION BY DEFENSE IN WITHDRAWING TODAY PRECLUDED SUBMISSION OF THIS PROPOSAL TO THEM.

4. IN VIEW OF REFTEL AND IN SPITE OF COUNTER PROPOSAL BY GOJ EMB HAD TAKEN STEPS TO APPROACH HIGHER LEVEL OF GOJ ON BEHALF OF AMBASSADOR PERSONALLY TO REQUEST EXTENSION FOR INDEFINITE PERIOD TO COMPLETE DEPOSITION OF BOTH WITNESSES. THIS PROVED NOT TO BE NECESSARY IN VIEW OF DEFENSE ACTION.

5. COMMENT: EMB REALIZES THIS FINISH IS A DISAPPOINTMENT TO ALL CONCERNED. DEFENSE WILL COMPLAIN BITTERLY AND CONDEMN EMB, STATE, USG, AS WELL AS GOJ. JUSTICE MAY DEPLORE OUTCOME AND MAY BLAME EMB FOR NOT BEING ABLE TO OBTAIN FAVORABLE EXTENSION. AND GOJ IS ALSO NO DOUBT DISAPPOINTED IN THE EMBASSY'S INABILITY TO INFORM THEM IN ADVANCE OF THE POSSIBLE DELAYING TACTICS WHICH DEFENSE MIGHT EMPLOY AND OUR INABILITY TO FURNISH INFO AS TO JUST WHEN THE ENTIRE PROCEEDING WOULD END, ETC, ETC. HUNDREDS OF HOURS HAVE BEEN CONSUMED BY EMB PERSONNEL AT MANY LEVELS AND OFFICES. THE TIME OF NINE EMB OFFICERS HAS

BEEN CONSUMED FOR 24 HOURS DAILY THIS ENTIRE WEEK. THE EMB HAS MORE REASON TO BE DISAPPOINTED THAN ANYONE ELSE FOR UNLESS THE TESTIMONY TAKEN HERE CAN SOMEHOW BE INTRODUCED AS EVIDENCE IN COURT THEN ALL ITS EFFORTS HAVE BEEN IN VAIN.
HODGSON

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